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# BOOK REVIEWS.

GEORGE W. JAKES, *Editor-in-Charge.*

THE FIXED LAW OF PATENTS. By WILLIAM MACOMBER. Boston: LITTLE, BROWN & Co. 1909. pp. cxlv., 925.

The bulk of this interesting and instructive work consists, as stated by the author, in "an orderly statement of the fixed law of patents in the exact language of the Court," and not in what the author thinks the Courts have said. In this Statement, and under appropriate headings, the author quotes from cases, using the language of the Courts without comment of his own. In a Brief Survey, preceding the statement of the fixed law of patents, he has, however, referred to the most important subjects occurring in Patent Law, giving a brief, concise and clear summary of his own opinion of the law on such subjects. This was not a part of the original plan of the work, but was subsequently added, as the author states, at the solicitation of lawyer friends. It contains many cogent and forceful criticisms of the law as existing, and together with the main portion of the work, will be found of value not only by the general practitioner, to whom the author has generally addressed his work, but also to the patent specialist.

A unique feature of the entire work is its limitation to what the author calls the "fixed" law of patents. Under this he has confined his references to the decisions of the United States Supreme Court and the nine United States Circuit Courts of Appeals. All reference to opinions of the Circuit Courts is excluded. This is on the theory that no law is *fixed* until it has been made so by the decision of a Court of Appeal. Of course such a restriction makes the work an incomplete text-book on patents. There are many points that have been decided by Courts of original jurisdiction that have never been passed upon by a Court of Appeal and many of them that never will be. Included within these are such matters as lie in the discretion of the lower court, and much of the law referring to practice and procedure. For these subjects, the general practitioner or specialist must look further than the present work. But within its scope the work is one of undoubted value to both the specialist and the general practitioner, who is bold enough to enter the domain of patent law or practice. For the latter class, however, the most perplexing difficulties to be met in that field are not those of law, but those of mechanics, electricity, chemistry, etc., and the methods of dealing with questions that arise in these subjects. An examination into or a discussion of the law really plays a small part in the work of the patent specialist. Hearings in patent causes are not infrequent in which no mention whatever of law points is made by counsel.

Some criticism may perhaps be made of the use by the author of the word "fixed" in reference to law. This term is, of course, used relatively. In a sense, no law is "fixed," because even a court of last resort may reverse itself. The author, however, has clearly used it to designate the law as spoken by courts of final appeal. But this rule applied strictly would cut out the decisions of the nine U. S. Circuit Courts of Appeal, for in a sense they are not final. In proper cases their decisions, even in patent causes, may be reviewed by the Supreme Court. But from a practical standpoint, the author's

use and application of the word are useful, justifiable and commendable. Upon this point of the finality of the decisions of the nine Circuit Courts of Appeal the author has drawn a vivid picture of the absurdity of having nine equal independent courts of last resort, the jurisdiction of each covering only its prescribed part of the country. He cites an actual case where, owing to conflicting decisions by different courts in reference to the same patent, the same article identically would be an infringement or would not be an infringement of a certain patent, dependent upon the name of the manufacturer or the part of the country where the article was used, certainly a ridiculous and most unjust state of affairs. The author makes the interesting assertion that, in his opinion, the law is unconstitutional which prevents appeals from being taken to the United States Circuit Court as a matter of right.

The author concludes his work with the Patent Statutes, to which he has added a few annotations taken from the pamphlet of the Patent Statutes issued by the Patent Office.

Both in the main part of the work and in the survey, the treatment of the different subjects is in most instances concise, accurate and clear, and the work will undoubtedly prove of great value to the profession.

*A. D. K.*

WHITE ON CORPORATIONS. By FRANK WHITE. 7th ed. New York: BAKER, VOORHIS & Co. 1909. pp. ix, 1505.

The profession will welcome the 7th edition of this work devoted to the Corporation Laws of the State of New York. Each new edition, keeping pace with the times, has been regarded as a standard by the active practitioner, and the present edition, if anything, surpasses its predecessors. While it follows the 6th edition after the lapse of but two years, the consolidation of the general laws of the State in 1909 as the Consolidated Laws, the transfer of some 600 sections from the Code of Civil Procedure to the Consolidated Laws, and the enactment of important statutes, such as the Public Service Commissions Law, with the many important decisions of the courts in that time, have made this last edition a necessity. The general plan of the work has not been changed; the book is not a theoretical treatise upon the law of corporations, and does not purport to be. The arrangement and method of treatment are eminently practical. The text of the following statutes are printed in full: The General Corporations Law; The Stock Corporations Law; The Business Corporations Law; The Transportation Corporations Law; Public Service Commissions Law; The Railroad Law; Miscellaneous Railroad Laws not found in the Consolidated Laws; The Rapid Transit Act; The Joint Stock Association Law; The General Construction Law; Condemnation Law; and the United States Corporation Tax Law.

In addition, all provisions of other statutes which are applicable to corporations are printed under the particular section of the corporation statute to which they relate, as for instance, the Tax Law, the Labor Law, the Code of Civil Procedure, the Domestic Relations Law, the Penal and Criminal Code, the Sherman Anti-Trust Act and the Lien Law.

Following each section of the statutes in smaller type are the author's annotations, which are complete and exhaustive, and include